

APPROVED:

DAVID N. KELLEY

MICHAEL J. GARCIA

Assistant United States Attorneys

BEFORE:

HONORABLE SHARON E. GRUBIN
United States Magistrate Judge
Southern District of New York

98 MAG. 2052

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

HAROUN FAZIL,
a/k/a "Harun,"
a/k/a "Harun Fahdl,"
Defendant.

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SEALED COMPLAINT

Violation of
Title 18, United
States Code,
Sections 1111, 1117,
2332a and 2

SOUTHERN DISTRICT OF NEW YORK, ss.:

DANIEL J. COLEMAN, being duly sworn, deposes and says
that he is a Special Agent of the Federal Bureau of Investigation
("FBI"), and charges as follows:

COUNTS ONE THROUGH TWELVE: MURDER

1. On or about August 7, 1998, in the special maritime
and territorial jurisdiction of the United States, as that term is
defined in Title 18, United States Code, Section 7(3), and outside
the jurisdiction of any particular state or district, HARUN FAZIL,
a/k/a "Harun," a/k/a Harun Fahdl, the defendant, together with
others known and unknown, unlawfully, deliberately, and with malice
aforethought, murdered the United States nationals identified

below, as well as hundreds of non-Americans, at the United States Embassy Compound, Nairobi, Kenya (the "Embassy").

COUNT

VICTIM

ONE	NATHAN ALIGANGA
TWO	JULIAN HARTLEY
THREE	JAY HARTLEY
FOUR	JEAN DALIZU
FIVE	MOLLY HARDY
SIX	KEN HOBSON
SEVEN	PRABHI GUPTARA KAVALIER
EIGHT	ARLENE KIRK
NINE	LOUISE MARTIN
TEN	MICHELLE O'CONNOR
ELEVEN	SHERRY OLDS
TWELVE	UTTAMLAL SHAH

(Title 18, United States Code, Sections 7(3), 1111, and 2.)

COUNT THIRTEEN: MURDER CONSPIRACY

2. From in or about March 1998 through the date of the filing of this Complaint, outside the jurisdiction of any particular state or district, HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl," the defendant, together with others known and unknown, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed together and with each other to murder the occupants of the United States Embassy Compound, Nairobi, Kenya, in the special maritime and territorial jurisdiction of the United States, as that term is defined in Title 18, United States Code, Section 7(3).

3. In furtherance of the conspiracy and to effect the object thereof, the defendant and others committed the following overt acts, among others:

a. From in or about May 1998, through on or about August 7, 1998, HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl," the defendant, maintained a villa in the vicinity of Nairobi, Kenya.

b. On or about August 1, 1998, HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl," the defendant, together with others known and unknown, reconnoitered the Embassy.

c. On or about August 7, 1998, HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl," the defendant, together with others known and unknown, driving the lead vehicle, directed a second, bomb-laden vehicle in the direction of the Embassy.

(Title 18, United States Code, Sections 1117.)

COUNT FOURTEEN: USE OF WEAPONS OF MASS DESTRUCTION

4. From in or about 1994 through the date of the filing of this Complaint, in Nairobi, Kenya and outside the jurisdiction of any particular state or district, HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl, the defendant, together with others known and unknown, unlawfully, willfully, and knowingly, and without lawful authority, combined, conspired, confederated and agreed together and with each other to use and threaten to use, weapons of mass destruction, against property that is owned, leased, and used by the United States, to wit, the defendant conspired to detonate an improvised explosive device inside and in the vicinity of the United States Embassy Compound, Nairobi, Kenya.

(Title 18, United States Code, Section 2332a.)

The bases for my knowledge and the foregoing charges are as follows:

5. I have participated in the investigation of the above-captioned matter, and have spoken with other individuals, including federal agents, other law enforcement officials, and other witnesses. When I rely on statements made by others, such statements are related in part and in substance unless otherwise indicated. Moreover, because this affidavit is submitted for the limited purpose of establishing probable cause supporting the arrest of the defendant, I have not set forth each and every fact learned during the course of this investigation.

6. On August 7, 1998, at approximately 10:30 a.m. local time, a massive explosion occurred in the vicinity of the United States Embassy in Nairobi, Kenya, demolishing a secretarial college adjacent to the rear of the Embassy and severely damaging both the Embassy and a nearby building. At least 258 persons were killed, including 12 United States nationals.

7. A coconspirator of the defendant who has acknowledged participating in the Embassy bombing ("CC-1"), has stated after his arrest, among other things that:

a. On or about August 1, 1998, CC-1 joined an individual he knew as "Harun," in Nairobi, Kenya. CC-1 identified "Harun" from video footage that was taken in or about May 1996 (hereinafter the "video").

b. On or about August 1, 1998 Harun and CC-1 reconnoitered the Embassy in preparation for the August 7, 1998 bombing operation.

c. After initially staying in a hotel, CC-1 moved into a villa with Harun that Harun had rented in the vicinity of

Nairobi. CC-1 stated that he believed that the bomb was constructed in the villa (hereinafter the "Villa").

d. On the morning of August 7, 1998 the occupants of the bomb-laden vehicle followed the defendant, who was driving a white pick-up truck, to the vicinity of the Embassy.

8. A confidential source ("CS-1") who has known Harun for more than one year, has identified the Villa as a place rented by Harun from in or about May 1998 through on or about August 7, 1998. CS-1 also reported that, in the days immediately following the August 7, 1998 bombing of the Embassy, Harun hired two individuals to clean out the Villa. Moreover, CS-1 reported that, on or about August 14, 1998, Harun left Tanzania for the Comoros Islands.

9. On or about August 20, 1998 members of the FBI participated in a search of the Villa. Agents conducting the search observed large amounts of a gray powder in various places in the Villa. Samples of the powder were shipped to the FBI laboratory for testing. That material has not yet arrived at the laboratory; however, bomb technicians and an FBI chemist to whom the powder was described have stated that the appearance of the material is consistent with that of aluminum powder, an ingredient frequently used in improvised explosive devices.

10. An individual who has acknowledged his membership in al Qaeda (see ¶ 10(c), supra), hereinafter "CC-2," has also provided information about Harun. In sum and substance, CC-2 has stated the following concerning Harun:

a. He knows the individual in the video (see ¶ 7a, supra), as "Harun Fadhl" who is from the Comoros Islands. CC-2 first met Harun in a paramilitary training camp in Afghanistan in or about 1994.

b. CC-2 knew that Harun drove a white pick-up type vehicle.

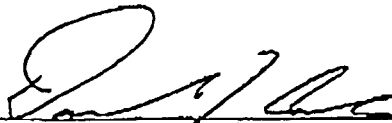
c. Harun has been a member of al Qaeda, an international terrorist group, led by Usama Bin Laden, dedicated to opposing non-Islamic governments with force and violence. In particular, Harun has been trained in explosives and has been an active participant in the Kenyan cell of al Qaeda. One of Harun's duties in al Qaeda has been the preparation of various reports for al Qaeda and the transmittal of those reports to Usama bin Laden and his top lieutenants.

d. In or about early August 1998 CC-2 met with various members of al Qaeda's Kenyan cell in the Hilltop Hotel in Nairobi. Among those who also attended the meetings were Harun and another explosives expert. CC-2 stated that, on or about August 4,

1998, CC-2 was advised by a leader of the Kenyan cell that Harun was involved in a "small job."

e. In or about early August, CC-2 was advised by al Qaeda members to leave Nairobi by August 6, 1998, and further, that Harun would be staying in Nairobi for some unspecified purpose.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant HARUN FAZIL, a/k/a "Harun," a/k/a Harun Fahdl, and that he be imprisoned or bailed as the case may be.


DANIEL J. COLEMAN
Special Agent,
Federal Bureau of Investigation

Sworn to before me this
28th day of August, 1998


UNITED STATES MAGISTRATE JUDGE

SHARON E. GRUBIN
United States Magistrate Judge
Southern District of New York